

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

Myron Gregory Jessie,

Plaintiff,

Case No. 21-cv-11201

v.

Judith E. Levy

United States District Judge

Patrice Phaneuf, *et al.*,

Mag. Judge Jonathan J.C. Grey

Defendants.

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**ORDER ADOPTING AMENDED  
REPORT AND RECOMMENDATION [65]**

Before the Court are Magistrate Judge Jonathan J.C. Grey's Report and Recommendation (ECF No. 63) and amended Report and Recommendation (ECF No. 65) recommending the Court deny Plaintiff Myron Gregory Jessie's motion for default judgment. (ECF No. 52.) The parties were required to file specific written objections, if any, within fourteen days of service. *See* Fed. R. Civ. P. 72(b)(2); E.D. Mich. LR 72.1(d). No objections were filed. The Court has nevertheless carefully reviewed the amended Report and Recommendation (ECF No. 65) and concurs in the reasoning and result. The initial Report and

Recommendation (ECF No. 63) appears to be largely identical to the amended Report and Recommendation.

In addition to the reasons articulated in the amended Report and Recommendation, the Court denies Plaintiff's motion for default judgment because Defendants Patrice Phaneuf, Emily Nguyen, Aurelia Wolosion, and Jay Saph timely filed an answer to the complaint. (*See* ECF Nos. 43, 45.) Federal Rule of Civil Procedure 55(a) provides that “[w]hen a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend, and that failure is shown by affidavit or otherwise, the clerk must enter the party’s default.” Fed. R. Civ. P. 55(a). “Because [Defendants] ha[ve] neither failed to plead or otherwise defend, [Plaintiff] has not shown entitlement to a default, let alone a default judgment.” *Robinson v. Chapko*, No. 20-10499, 2021 WL 1396626, at \*1 (E.D. Mich. Feb. 3, 2021), *report and recommendation adopted*, No. 20-cv-10499, 2021 WL 1388009 (E.D. Mich. Apr. 13, 2021).

Accordingly,

The initial Report and Recommendation (ECF No. 63) is MOOT;

The amended Report and Recommendation (ECF No. 65) is ADOPTED; and

Plaintiff's motion for default judgment (ECF No. 52) is DENIED.<sup>1</sup>

IT IS SO ORDERED.

Dated: January 30, 2023  
Ann Arbor, Michigan

s/Judith E. Levy  
JUDITH E. LEVY  
United States District Judge

### **CERTIFICATE OF SERVICE**

The undersigned certifies that the foregoing document was served upon counsel of record and any unrepresented parties via the Court's ECF System to their respective email or first-class U.S. mail addresses disclosed on the Notice of Electronic Filing on January 30, 2023.

s/William Barkholz  
WILLIAM BARKHOLZ  
Case Manager

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<sup>1</sup> By failing to object to the initial or amended Report and Recommendation, the parties have forfeited any further right of appeal. *See United States v. Wandahsega*, 924 F.3d 868, 878 (6th Cir. 2019); *see also Berkshire v. Beauvais*, 928 F.3d 520, 530 (6th Cir. 2019).